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c 62 Mining Amendment Act, 1989

Ontario

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CHAPTER 62

An Act to amend the Mining Act

Assented to December 6th, 1989

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 1 of section 1 of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1. “anniversary date”, when referring to a mining claim, means the date that occurs at annual intervals after the recording of a mining claim, or such other date as results from the application of subsection 79 (2).

(2) Paragraphs 4 and 5 of the said section 1 are repealed and the following substituted therefor:

4. “Crown land” does not include,
 - i. land, the surface rights, mining rights or the mining and surface rights of which are under lease or licence of occupation from the Crown,
 - ii. land in the actual use or occupation of the Crown, the Crown in right of Canada, or of a department of the Government of Canada or a ministry of the Government of Ontario,
 - iii. land the use of which is withdrawn or set apart or appropriated for a public purpose, or
 - iv. land held by a ministry of the Government of Ontario;
5. “Deputy Minister” means the Deputy Minister of Mines.

(3) Paragraph 6 of the said section 1 is repealed.

(4) Paragraph 7 of the said section 1 is repealed and the following substituted therefor:

7. "holder", when referring to the holder of an unpatented mining claim, a boring permit or a licence of occupation issued under this Act, means the holder of record.

(5) Paragraph 9 of the said section 1 is repealed and the following substituted therefor:

9. "inspector" includes a geologist on the staff of the Ministry and any other officer or agent designated by the Minister to carry out an inspection or investigation of the mining industry.

(6) Paragraph 11 of the said section 1 is repealed and the following substituted therefor:

11. "licensee" means a person holding a prospector's licence issued under this Act or a renewal thereof.

(7) Paragraphs 14, 15 and 16 of the said section 1 are repealed and the following substituted therefor:

14. "mine", when used as a noun, means any opening or excavation in, or working of the ground, for the purpose of winning any mineral or mineral bearing substance, and all ways, works, machinery, plant, buildings and premises below or above the ground belonging to or used in connection with such activity, and any roasting or smelting furnace, concentrator, mill, work or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any of such substances and includes mines that have been temporarily suspended, rendered inactive, closed out or abandoned as well as lands where tailings, or wasterock, or both, or any other prescribed substances from any opening or excavation or working of the ground have been deposited;
15. "mine", when used as a verb, means the performance of any work in or about a mine, as defined in paragraph 14;
16. "minerals" means all naturally occurring metallic and non-metallic minerals, including natural gas, petroleum, coal, salt, quarry and pit material, gold,

silver and all rare and precious metals, but does not include sand, gravel and peat;

- 16a. "mining claim" means a parcel of land, including land under water, that has been staked and recorded in accordance with this Act and the regulations.

(8) Paragraphs 18, 19, 20, 21 and 22 of the said section 1 are repealed and the following substituted therefor:

18. "mining rights" means the right to minerals on, in or under any land;
19. "Minister" means the Minister of Mines, except that in Parts IV and IX-A "Minister" means the Minister of Natural Resources;
20. "Ministry" means the Ministry of the Minister;
21. "owner", when used in Parts IX, IX-B and XI, includes every person, being the immediate proprietor, lessee or occupier of a mine, or a part thereof, or of any land located, patented or leased as mining land, and includes an agent, or a person designated by the owner or agent as responsible for the control, management and direction of a mine, or a part thereof, but does not include a person receiving merely a royalty from a mine, or mining lands, or the owner of the surface rights only;
22. "patent" means a grant from the Crown in fee simple or for a less estate made under the Great Seal, and includes leasehold patents and freehold patents, but in sections 4, 28, 97, 100 to 108, 190, 194, 197 and 204, the meaning is limited to freehold patents.

(9) Paragraph 23 of the said section 1 is repealed and the following substituted therefor:

23. "prescribed" means prescribed by the regulations;
- 23a. "prospecting" means the investigating of, or searching for, minerals.

(10) Paragraphs 26 and 29 of the said section 1 are repealed.

2. The said Act is amended by adding thereto the following section:

Purpose of
Act

1a. The purpose of this Act is to encourage prospecting, staking and exploration for the development of mineral resources and to minimize adverse effects on the environment through rehabilitation of mining lands in Ontario.

3. Section 3 of the said Act is repealed.

4. Section 4 of the said Act is amended by adding thereto the following subsections:

Immunity for
acts done in
good faith

(3) No action or other proceeding for damages shall be instituted against the Minister, the Deputy Minister or any officer or employee of the Ministry or any one acting under the authority of the Minister or Deputy Minister for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown
liability
R.S.O. 1980,
c. 393

(4) Subsection (3) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (3) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (3) had not been enacted.

Delegation of
Minister's
powers, etc.

(5) Where under this Act a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, conditions and requirements as the Minister sets out in the delegation.

Employees
authorized to
take
affidavits

(6) The Minister may empower such employees of the Ministry as the Minister designates to administer oaths and take and receive affidavits, declarations and affirmations authorized by law, for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of such oath, affidavit, declaration or affidavit, all the powers of a commissioner for taking affidavits under the *Commissioners for taking Affidavits Act*.

R.S.O. 1980,
c. 75

5.—(1) Subsection 6 (1) of the said Act is repealed and the following substituted therefor:

Mining
recorder

(1) The Minister may appoint an employee of the Ministry as mining recorder for each mining division.

(2) Subsection 6 (3) of the said Act is repealed.

6. Section 7 of the said Act is amended by inserting after “such” in the first line “record”.

7.—(1) Section 9 of the said Act is amended by striking out “any of such books” in the first and second lines and inserting in lieu thereof “a record book”.

(2) The said section 9 is further amended by adding thereto the following subsections:

(2) Where a copy of or extract from an entry in a record book or any document filed in the recorder's office is recorded electronically or on a magnetic medium, any writing that,

Computer
printout,
etc.,
admissible
evidence

- (a) represents the entry in the record book or the filed document;
- (b) is generated or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original book or filed document.

(3) Where a record in a recorder's office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

Idem

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

8.—(1) Subsection 12 (1) of the said Act is amended by striking out “and any such purchase or interest is void” in the fourth and fifth lines.

(2) Subsection 12 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the Deputy Minister is satisfied that an officer has in good faith acquired an interest referred to in subsection

Waiver by
Deputy
Minister

(1) for other than mining purposes, the Deputy Minister may in writing waive the application of subsection (1) to the officer.

Penalty

(3) Any officer contravening subsection (1) forfeits his or her office.

9. Subsection 18 (1) of the said Act is repealed and the following substituted therefor:

Licence
required

(1) No person shall prospect on Crown lands or stake out, record or apply to record the staking of a mining claim unless the person is the holder of a prospector's licence issued under this Act.

10. Section 19 of the said Act is repealed and the following substituted therefor:

Who may
receive
licence

19.—(1) Any natural person who is of the age of eighteen years or over is entitled to obtain a prospector's licence upon application therefor made in the prescribed form and upon payment of the prescribed fee.

Date and
term of
licence

(2) A licence shall be dated on the day of its issue and expires at midnight on the day of the fifth anniversary of the licensee's birth date that follows the issue of the licence.

Not valid
unless signed

(3) A licence is not valid unless it is signed by the holder thereof in the space provided on the licence.

Licence not
transferrable

(4) A licence is not transferrable.

Who may
issue

(5) A licence may be issued by any recorder.

Service

(6) Any notice or document relating to a licensee is sufficiently served upon the licensee if delivered or sent by prepaid first class mail to the address shown on the application for the prospector's licence or to the address given under subsection (8), if applicable.

Idem

(7) Where service is made by prepaid first class mail under subsection (6) it shall be deemed to have been made on the fifth day after the day of mailing.

Notice of
change of
address

(8) A licensee shall notify, in the prescribed form, the recorder of any change in the address of the licensee.

11. Section 21 of the said Act is repealed.

12.—(1) Subsection 22 (1) of the said Act is repealed and the following substituted therefor:

(1) A licensee is entitled to a renewal of his or her licence upon making application therefor in the prescribed form and paying the prescribed fee within sixty days of its expiration. Renewal of licence

(1a) Notice of the expiration of a licence shall be given by the recorder to the holder of the licence not later than sixty days before the expiry date. Notice of expiration of licence

(2) Subsections 22 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) A licence may be renewed by any recorder. Who may renew

(3) The renewal shall bear date on the day following the expiration of the licence or renewal of licence of which it is the renewal and shall take effect immediately upon the expiration of that licence, or renewal thereof, as the case may be. Date and term of renewal

(3) Subsection 22 (4) of the said Act is amended by adding at the end thereof “and shall expire at 12 o'clock midnight on the day that is the fifth anniversary of the licensee's birth date following the effective date of the renewal”.

(4) Subsection 22 (5) of the said Act is repealed and the following substituted therefor:

(5) The Minister shall renew without fee the licence of a person who has held a licence continuously for twenty-five years, and the licence shall remain in good standing during the lifetime of the licensee. Lifetime renewal by Minister

(6) The Minister may, at his or her discretion, renew the licence of a person without fee and order that the licence remain in good standing during the lifetime of the licensee. Idem

13. Subsection 24 (1) of the said Act is repealed and the following substituted therefor:

(1) No person shall apply for or hold more than one prospector's licence. Not more than one licence

14.—(1) Subsection 27 (5) of the said Act is repealed and the following substituted therefor:

(5) While a licence is suspended under subsection (3), the licensee may renew the licence but the licensee may not stake out or apply to record a mining claim. Rights of licensee under suspension

Where holder
of mining
claim
contravenes
Act

(5a) Where the recorder finds, after a hearing, that a holder of a mining claim has contravened any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the recorder, order that such holder may not acquire an unpatented mining claim or interest therein through transfer or obtain an extension of time in which to perform work or to apply for lease on any unpatented mining claim recorded in the name of the holder.

Cancellation
of mining
claims

(5b) Where the Commissioner finds, after a hearing, that a holder of a mining claim has been guilty of a wilful contravention of any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the Commissioner, declare any mining claims of the holder to be cancelled and thereupon all rights of the holder in or to mining claim lands cease.

Order
pending
hearing

(5c) Pending the holding of a hearing on any matter under this section, the Commissioner or the recorder, as the case may be, before whom the hearing will be held, may order that any mining claim of the licensee or holder whose conduct is in question shall not, before the conclusion of the hearing and final disposition of the matter, be transferred to any other person.

Prohibition
against
staking out
claims, etc.

(5d) Where mining claims are cancelled under subsection (5b), the former holder of the mining claims may not stake out or apply for a mining claim or acquire an unpatented mining claim or interest therein through transfer for such period of time as the Minister determines, and the Minister shall notify the former holder of the period of time so determined.

(2) Subsection 27 (6) of the said Act is repealed and the following substituted therefor:

Appeal

(6) A finding by the Commissioner that a licensee or holder of a mining claim has wilfully contravened this Act or the regulations or by a recorder that a licensee or holder of a mining claim has contravened this Act or the regulations, as the case may be, may be appealed in like manner as any decision of the Commissioner or recorder, respectively, and the Minister shall give effect to the decision on the appeal.

15. Section 29 of the said Act is amended by striking out "licensee" in the fourth line and inserting in lieu thereof "person".

16.—(1) Clause 30 (b) of the said Act is repealed and the following substituted therefor:

- (b) upon any land laid out on a registered plan of subdivision.

(2) Clause 30 (d) of the said Act is repealed.

17.—(1) Clause 31 (b) of the said Act is repealed and the following substituted therefor:

- (b) for which an application brought in good faith is pending in the Ministry of Natural Resources under the *Public Lands Act* or otherwise, and the applicant may acquire the minerals; or

R.S.O. 1980,
c. 413

(2) Clause 31 (c) of the said Act is amended by inserting after “Ministry” in the third line “of Natural Resources”.

(3) Clause 31 (d) of the said Act is amended by striking out “and Communications” in the second line.

18. Subsection 33 (1) of the said Act is amended by striking out “or company” in the second and third lines.

19. Section 34 of the said Act is amended by striking out “licensee” in the fifth line and inserting in lieu thereof “holder of the mining claim”.

20. Section 35 of the said Act is amended by striking out “and Communications” in the third line.

21.—(1) Subsection 36 (1) of the said Act is amended by striking out “or an officer appointed under this Act and designated by the Minister” in the first and second lines.

(2) Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

- (2) Where the Minister makes an order under subsection (1), the Minister shall, within twenty-four hours of the date of the order, mail a copy of the order to the recorder.

Copy of
order sent to
recorder

(3) Subsection 36 (4) of the said Act is repealed and the following substituted therefor:

- (4) Lands, mining rights or surface rights withdrawn under this section, until re-opened by the Minister, shall remain withdrawn and shall not be prospected or staked out.

Lands
withdrawn
not to be
prospectied,
etc.

22. Section 38 of the said Act is repealed.

23. Section 39 of the said Act is repealed and the following substituted therefor:

Permit under
R.S.O. 1980,
cc. 173, 413

39. Before beginning or carrying on any prescribed assessment work on a mining claim, the holder thereof, in addition to any other requirement, shall obtain a written permit entitling the holder to do so as provided in the *Forest Fires Prevention Act* or the *Public Lands Act*.

24. Section 40 of the said Act is repealed and the following substituted therefor:

Manner of
staking
mining claim

40. A mining claim shall be staked in such size, form and manner as is prescribed and may be staked on any day.

25. Section 42 of the said Act is repealed.

26.—(1) Subsections 43 (1), (2) and (3) of the said Act are repealed.

(2) Subsection 43 (5) of the said Act is amended by striking out “and Communications” in the third line.

27.—(1) Subsection 44 (1) of the said Act is repealed and the following substituted therefor:

Rates for
licences of
occupation

(1) Notwithstanding the provisions of a licence of occupation, there shall be paid, in advance, the prescribed annual rental for the licence of occupation.

(2) Subsection 44 (6) of the said Act is repealed and the following substituted therefor:

Lease may
be issued
under s. 94

(6) The holder of a licence of occupation, upon application in writing therefor and upon the surrender of the licence of occupation, may be issued a lease under section 94 and the rental for each year of the term thereof shall be that prescribed for the purposes of section 94 for years subsequent to the first year of a term.

28. Sections 45, 46, 47 and 48 of the said Act are repealed.

29. Section 50 of the said Act is amended by adding thereto the following subsection:

Deemed
substantial
compliance

(2) The staking out of a mining claim shall be deemed to be in substantial compliance with the requirements of this Act and the regulations even if there is a failure to comply with a number of specific staking requirements if,

- (a) the failure to comply is not likely to mislead any licensee desiring to stake a claim in the vicinity; and
- (b) it is apparent that an attempt has been made in good faith by the licensee to comply with the requirements of this Act and the regulations.

30. Section 51 of the said Act is repealed and the following substituted therefor:

51.—(1) A licensee who has staked out a mining claim shall make an application in the prescribed form to the recorder accompanied by the prescribed fee and a sketch or plan showing the prescribed information to record the claim not later than thirty-one days after the day on which staking was completed.

Application
to record
mining claim

(2) Priority of completion of staking shall prevail where two or more licensees make application to record the staking of all or a part of the same lands.

Priority of
completion
prevails

(3) Where one of the applications made by two or more licensees to record the staking of a mining claim is entitled to priority under subsection (2), the recorder shall cancel the other application or applications and shall by registered letter mailed not later than the following day notify the other licensee or licensees of the recorder's action and the reason therefor.

Notice to
other licensee
or licensees

31. Section 52 of the said Act is repealed.

32.—(1) Subsection 54 (1) of the said Act is amended by striking out "unless a prior application is already recorded and subsisting for the same, or for any substantial part of the same lands or mining rights" in the fourth, fifth and sixth lines.

(2) Subsection 54 (2) of the said Act is amended by inserting after "claim" in the fourth line "that has priority under subsection 51 (2)" and by striking out "licensee" in the twelfth line and inserting in lieu thereof "person".

(3) Subsections 54 (5), (6), (7) and (8) of the said Act are repealed.

(4) Subsection 54 (9) of the said Act is repealed and the following substituted therefor:

(9) There shall be added to each claim number the prefix allotted to the mining division in which the claim is situate.

Division
prefix added

33. Section 55 of the said Act is repealed and the following substituted therefor:

Metal tags

55.—(1) Metal tags and duplicate tags shall be provided by the Ministry on payment of the prescribed fee and may be used by any licensee in staking out claims in the prescribed manner and within the prescribed time.

Transfer of tags

(2) Metal tags and duplicate tags do not expire but may not be re-used.

34.—(1) Subsection 56 (1) of the said Act is amended by inserting after “by” in the first line “a detailed statement of claim and an” and by striking out “licensee” in the third line and in the fifth line and inserting in lieu thereof in each instance “person”.

(2) Subsection 56 (2) of the said Act is repealed and the following substituted therefor:

Copy to be sent to recorded holder

(2) A copy of the dispute, statement of claim and affidavit shall be left by the disputant with the recorder who shall, not later than the next day after the filing of the dispute, transmit the copy by registered mail to the recorded holder or holders of the mining claim affected thereby, and, if the copy is not left, the recorder may refuse to file or note the dispute or may collect from the disputant the prescribed fee per page for making the copy.

(3) Subsection 56 (5) of the said Act is repealed and the following substituted therefor:

When not to be received

(5) A dispute shall not be received or entered against a claim,

- (a) after one year from the recording of the claim;
- (b) after the first prescribed unit of assessment work has been performed and filed and, where necessary, approved; or
- (c) except by leave of the Commissioner,
 - (i) after the validity of the claim has been adjudicated upon by the recorder or by the Commissioner, or
 - (ii) after it has been on record for sixty days and has already had a dispute entered against it.

(5a) Where a dispute is entered against a claim after the first prescribed unit of assessment work has been performed and filed but before the assessment work has been approved, where approval is necessary, the dispute shall be deemed to have been resolved in favour of the holder or holders of the claim if the assessment work is subsequently approved and the note of the dispute entered on the record of the claim shall be struck out by the recorder who shall by registered letter mailed not later than the following day notify the disputant of the recorder's action and the reason therefor.

Where
assessment
work
subsequently
approved

(4) Section 56 of the said Act is amended by adding thereto the following subsections:

(7) Notwithstanding clause 28 (c) and subsection 84 (1), where a dispute has not been filed against a mining claim a transferee who has acquired the claim in good faith may re-stake or cause to be re-staked the claim or any part thereof at any time and, upon filing with the recorder a notice in the prescribed form of the re-staking, the recorder shall, upon notice to all persons having a recorded interest in the original claim, order that the re-staked claim shall be deemed to have been recorded on the date of the recording of the original claim or any part thereof that has been re-staked.

Re-staking
claim

(8) In an order made under subsection (7), the recorder shall provide that orders, assessment work reports, instruments or other notations which have been entered against the original claim be entered in the record book in respect of the re-staked claim, and may include in the order such provisions as the recorder considers necessary to effect such entry in the record book of the re-staked claim.

Entry of
orders, etc.,
against re-
staked claim

35. Sections 57, 58 and 59 of the said Act are repealed.

36.—(1) Subsection 59a (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 48, section 1, is repealed and the following substituted therefor:

(1) A recorder may by order relieve an unpatented mining claim that is subject to forfeiture as a result of an administrative error on the part of the Crown from the forfeiture.

Relief from
forfeiture

(2) Subsection 59a (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 48, section 1, is repealed and the following substituted therefor:

(4) An order under subsection (1) or (3) may grant an extension of time for performing and reporting any work required to be performed or for applying and paying for a

Extension of
time

lease in respect of the claim or provide for the payment of any fees in respect of the claim.

37. Subsections 60 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Rights in
claim

(1) The staking out or the filing of an application for or the recording of a mining claim, or the acquisition of any right or interest in a mining claim by any person or all or any of such acts, does not confer upon that person,

(a) any right, title, interest or claim in or to the mining claim other than the right to proceed as in this Act provided to perform the prescribed assessment work or to obtain a lease from the Crown and, prior to the performance, filing and approval of the first prescribed unit of assessment work, the person is merely a licensee of the Crown and after that period and until he or she obtains a lease the person is a tenant at will of the Crown in respect of the mining claim; or

(b) any right to take, remove or otherwise dispose of any minerals found in, upon or under the mining claim.

38. Section 62 of the said Act is repealed and the following substituted therefor:

Permission to
test mineral
content

62.—(1) The Minister may give written permission, subject to such conditions as are prescribed, to mine, mill and refine mineral bearing substance from an unpatented mining claim for the purpose of testing mineral content.

Conditions

(2) Permission granted under subsection (1) shall be for a specified time and shall cover a specified quantity of mineral bearing substance.

Sale of end
product

(3) The end product of mining, milling and refining permitted under subsection (1), except as provided in subsection (4), shall not be sold or otherwise disposed of until the mining claim from which the minerals were taken is leased under this Act.

Disposition
of proceeds

(4) Subsection (3) does not apply where the Minister gives written permission for the sale or disposition and where the Minister does so, the sale or disposition shall be in accordance with such terms as the Minister may impose.

39. Section 63 of the said Act is repealed.

40. Subsection 64 (2) of the said Act is amended by adding at the commencement thereof "Unless ordered otherwise by the Minister".

41. Section 70 of the said Act is amended by striking out "may" in the second line and inserting in lieu thereof "shall".

42.—(1) Section 71 of the said Act is amended by striking out "nor shall any such instrument be recorded without an affidavit in the prescribed form, attached to or endorsed thereon, made by a subscribing witness to the instrument" in the eighth, ninth, tenth and eleventh lines.

(2) The said section 71 is further amended by adding thereto the following subsections:

(2) Any such instrument shall not be recorded unless an affidavit in the prescribed form, attached thereto or endorsed thereon, is made by a subscribing witness to the instrument. Affidavit of execution

(3) Subsection (2) does not apply to the execution of an instrument by a corporation under its seal. Corporations

43. Subsection 74 (3) of the said Act is repealed.

44.—(1) Subsection 75 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate is of no effect and does not constitute notice to any person of the proceeding until it is filed. Not to constitute notice until filed

(2) Subsection 75 (6) of the said Act is amended by striking out "upon the latter becoming, if he is not before, a licensee" in the fifteenth and sixteenth lines.

(3) Subsection 75 (7) of the said Act is amended by striking out "a fee of \$1, which" in the second and third lines and inserting in lieu thereof "any required fee and such".

45. The heading preceding section 76 of the said Act is struck out and the following substituted therefor:

ASSESSMENT WORK

46. Section 76 of the said Act is repealed and the following substituted therefor:

76.—(1) The holder of a mining claim shall, following the recording of the claim, perform such annual units of assessment work as are prescribed. Assessment work

Report

(2) Subject to subsection (3), every mining claim holder shall, not later than the anniversary date, file in the office of the recorder or such other location as is prescribed a report in the prescribed form of the assessment work done for the purpose of complying with subsection (1), together with such other information as may be prescribed.

Idem

(3) The report mentioned in subsection (2) shall, in respect of any specified type of assessment work, be filed not later than such date earlier than the anniversary date as may be prescribed for that type of assessment work.

Credits measured in dollars spent

(4) For the purpose of subsection (1), assessment work credits shall be measured in terms of dollars spent.

47. Sections 77 and 78 of the said Act are repealed and the following substituted therefor:

Types of work eligible for credits, etc.

77.—(1) The types of work that are eligible for assessment work credits, the method of calculating and approving the credits for work performed and the distribution of credits for work performed to mining claims shall be determined in such manner as is prescribed.

Prospecting and regional surveys

(2) Prospecting and regional surveys performed on Crown lands before the staking of a mining claim are eligible for assessment work credits in such manner as is prescribed.

Work on patented mining claims

(3) Exploration work performed on patented mining claims may be allocated as assessment work to contiguous unpatented mining claims in the prescribed manner.

48. Section 79 of the said Act is repealed and the following substituted therefor:

Computing time for performance of assessment work

79.—(1) In computing the time within which work upon a mining claim is required to be performed or within which application and payment for a lease may be made,

R.S.O. 1980,
cc. 173, 413

- (a) if a permit under the *Forest Fires Prevention Act* or the *Public Lands Act* that is necessary for the beginning or carrying on of work under this Act is refused or the performance of such work is prohibited under those Acts or any other Act, or the holder defers the start of work or is delayed in its performance at the request, or by the actions, of the Crown, the time during which such refusal, prohibition, deferment or delay subsists, if the holder provides the Commissioner with satisfactory evidence of such refusal, prohibition, deferment or delay; or

- (b) the time during which proceedings in respect of the mining claim are pending before the Supreme Court, the Commissioner or the recorder, where the Commissioner is satisfied that any delay in settling the matter is not the fault of the holder,

shall be excluded, and the Commissioner may make an order fixing the date or dates by which the next or any prescribed units of work shall be performed and reported or by which an application and payment for lease may be made.

(2) Where the time for doing something under this Act is excluded, the next anniversary date after the exclusion in respect of the mining claim involved shall be deemed to be the date that falls after the anniversary date that would have occurred, except for this provision, by the number of days that equals the number of days of the exclusion, and all subsequent anniversary dates shall be adjusted accordingly.

Anniversary
date changed

(3) Notwithstanding anything in this Act, where in the opinion of the Minister special circumstances exist, the Minister may exclude the time within which work upon a mining claim is required to be performed or within which application and payment for lease may be made, and may by order fix the anniversary date or dates by which the next or any subsequent periods of work shall be performed and reported or by which application and payment for lease may be made.

Special
circumstances

49. Section 80 of the said Act is repealed.

50. Section 83 of the said Act is repealed and the following substituted therefor:

83.—(1) The holder of a mining claim may abandon the claim at any time by filing a notice of abandonment in the prescribed form with the recorder.

Right of
mining claim
holder to
abandon
claim

(2) The holder of a mining claim may abandon any part of the claim at any time on such conditions as are prescribed, by filing a notice of partial abandonment in the prescribed form with the recorder.

Abandonment
of part of
claim

(3) The recorder shall enter a note of the abandonment upon the record of the claim with the date of the receipt of the notice and shall forthwith post up in the recorder's office a notice of the abandonment with a sketch of the claim or part thereof to be abandoned.

Notice of
abandonment

(4) Where part of a claim has been abandoned under subsection (2), the recorder shall issue an order directing the

Order by
recorder

moving of posts or tags, the erection of new posts and the identification of new boundary lines and stating the time within which the work is to be completed.

Compliance
with order

(5) Where an order is issued under subsection (4), the mining claim holder affected shall file an affidavit in the prescribed form within the time set out in the order and a copy of the affidavit, marked with the date of the posting shall be posted by the recorder in the recorder's office.

Extension of
time by
recorder or
order of
abandonment

(6) Where the work set out in an order under subsection (4) has not been completed within the time set out in the order, the recorder may extend the time for completing the work or may order that the portion of the claim on which the work was to be done is abandoned and shall, in the case where an order of abandonment is made, by registered letter mailed not later than the next day after the making of the order, notify the holder of the recorder's action and the reason therefor, and a copy of the order shall be posted by the recorder in the recorder's office.

When claim
open for
staking

(7) Where part of a mining claim is abandoned under subsection (2) and an order of the recorder is made under subsection (6), the mining claim abandoned is open for staking from 9 o'clock in the forenoon of the eleventh day after the posting of the order of the recorder made under subsection (6).

Idem,
abandonment
of whole
claim

(8) Every mining claim abandoned under subsection (1) is open for staking from 9 o'clock in the forenoon of the eleventh day after the notice of abandonment is filed.

Idem,
abandonment
of part of
claim

(9) Where part of a mining claim is abandoned under subsection (2) and no order is made by the recorder under subsection (6), that part of the claim is open for staking from 9 o'clock in the forenoon of the eleventh day after the posting of the affidavit required under subsection (5).

51. Section 84 of the said Act is repealed and the following substituted therefor:

Deemed
abandonment
of claim

84.—(1) Non-compliance by the licensee or holder of a mining claim with any requirement of this Act or the regulations as to the time or manner of the staking out and recording of a mining claim or with a direction of the recorder in regard thereto, within the time limited therefor, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Commissioner, be forthwith opened to prospecting and staking out.

(2) Notwithstanding subsection (1), where in respect of a mining claim, no dispute is on file and, Saving

- (a) one year has elapsed since the day of the recording of the claim; or
- (b) the first prescribed unit of assessment work has been performed and filed and, where necessary, approved,

the mining claim shall be conclusively deemed to have been staked out and recorded in compliance with the requirements of this Act and the regulations.

52.—(1) Subsection 85 (1) of the said Act is amended by striking out “patent” in the second line and inserting in lieu thereof “lease”.

(2) Clause 85 (1) (a) of the said Act is repealed.

(3) Clause 85 (1) (c) of the said Act is repealed and the following substituted therefor:

- (c) if the prescribed work is not duly performed and reported as required by section 76 unless an application and payment for a lease of the mining claim is made under section 94.

(4) Clauses 85 (1) (d) and (e) of the said Act are repealed.

(5) Subsection 85 (2) of the said Act is amended by striking out “licensee” in the second line and inserting in lieu thereof “person”.

53. Sections 86 and 87 of the said Act are repealed and the following substituted therefor:

86.—(1) On application therefor being made to the recorder within thirty days before the expiration of the time for filing a report of assessment work, the recorder may allow an extension of time for performing and filing the report of the assessment work on such conditions as are prescribed. Extension of
time by
recorder

(2) Where forfeiture or loss of rights has occurred, the lands, mining rights or mining claims concerned are not open for staking until 7 o'clock in the forenoon of the day immediately following that upon which forfeiture or loss of rights occurred. Re-staking

When order
takes effect

(3) An order made by the recorder under this section comes into effect and shall be deemed to have been recorded at the time that the application was received in the office of the recorder, notwithstanding that such order may not have been immediately entered in the record book.

Cancellation
of record

(4) The recorder, upon a forfeiture or abandonment of or loss of rights in a mining claim, shall forthwith enter a note thereof, with the date of entry, upon the record of the claim and mark the record "Cancelled", and shall post up forthwith in the recorder's office a notice of cancellation.

54. Section 88 of the said Act is repealed and the following substituted therefor:

Death of
licensee or
holder

88. Where a licensee in whose name a mining claim has been staked out dies before the claim is recorded or where the holder of a claim dies before issue of the lease for the claim, no other person is, without leave of the Commissioner, entitled to stake out or record a mining claim upon any part of the same lands or to acquire any right, privilege or interest in respect thereof within twelve months after the death of such licensee or holder, and the Commissioner may at any time make such order as the Commissioner considers just for vesting the claim in the representative of such holder and extending the time for performing the work or applying for lease, notwithstanding any lapse, abandonment, cancellation, forfeiture or loss of rights under any provision of this Act.

55. Subsection 89 (1) of the said Act is repealed and the following substituted therefor:

Inspection by
Commissioner,
recorder or
inspector

(1) The Commissioner or the recorder may inspect or order an inspection of, and an inspector or other officer appointed by the Minister may inspect, a mining claim at any time with or without notice to the holder for the purpose of ascertaining whether this Act has been complied with, but after one year from the recording of the claim, or after the first prescribed unit of assessment work has been performed, filed and approved, no such inspection shall, unless ordered by the Minister under subsection 90 (5), be made for the purpose of ascertaining whether the claim has been staked out in the prescribed manner.

56.—(1) Subsection 90 (4) of the said Act is amended by striking out "licensee" in the seventh line and inserting in lieu thereof "holder".

(2) Section 90 of the said Act is amended by adding thereto the following subsection:

(5) Notwithstanding subsections 56 (5) and 84 (2), the Minister may challenge the validity of a mining claim at any time during the life of the claim and may direct the recorder to inspect the claim in accordance with section 89.

Inspection
ordered by
Minister

57. The said Act is further amended by adding thereto the following section:

91a.—(1) If there is an owner of the surface rights of the land comprising a mining claim, where a holder of the mining claim first proposes to do ground assessment work on such land, the holder shall give notice in the prescribed form to the owner of the surface rights of the holder's intention to perform the work.

Notice of
intention to
perform
assessment
work

(2) A person who has given notice under this section may enter on the land and perform the work at any time immediately following the day the notice is given.

Entry on
land to
perform work

(3) A recorder shall not record ground assessment work unless,

Where work
not to be
recorded

- (a) the holder files with the recorder a certificate in the prescribed form establishing that the required notice was given; or
- (b) the recorder determines that it is not feasible in the circumstances to give notice to the owner of the surface rights.

58. Section 92 of the said Act is repealed and the following substituted therefor:

92.—(1) In this section and in section 91a, "owner of the surface rights" means a person to whom the surface rights of land have been granted, sold, leased or located.

Definition

(2) Where there is an owner of surface rights of land or where land is occupied by a person who has made improvements thereon that, in the opinion of the Minister, entitles that person to compensation, a person who,

Right of
owner of
surface rights
to compen-
sation

- (a) prospects, stakes out or causes to be staked out a mining claim or an area of land for a boring permit;
- (b) formerly held a mining claim or an area of land for a boring permit that has been cancelled, abandoned or forfeited;

- (c) is the holder of a mining claim or an area of land for a boring permit and who performs assessment work; or
- (d) is the lessee or owner of mining lands and who carries on mining operations,

on such land, shall compensate the owner of the surface rights or the occupant of the lands, as the case may be, for damages sustained to the surface rights by such prospecting, staking out, assessment work or operations.

Right of holder of mining claim, etc., to compensation

(3) Every person who damages mineral exploration workings or claim posts, line posts, tags or surveyed boundary markers delineating mining lands shall compensate the holder of the mining claim or the owner or lessee of the mining lands, as the case may be, for damages sustained.

Determination of compensation by Commissioner

(4) In default of agreement and upon application made in the prescribed form by either party, the amount and the time and manner of payment of compensation under subsection (2) or (3) shall be determined by the Commissioner after a hearing and, subject to appeal to the Divisional Court where the amount claimed exceeds \$1,000, the Commissioner's order is final.

Prohibiting work pending settlement

(5) The Commissioner may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further prospecting, staking out or working by any person.

Lien for compensation

(6) The compensation is a special lien upon any mining claim or mining lands, as the case may be, and no further prospecting, staking out or performing of work, except by leave of the Commissioner, shall be done by any person after the time fixed for the payment or securing of the compensation, unless the compensation has been paid or secured as directed.

Power of Commissioner to vary, etc., order

(7) The Commissioner, on notice to all interested parties and for good cause shown, on such terms as seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order made under this section.

Priorities

(8) In a hearing under subsection (4), the Commissioner shall take into account which of the rights was applied for first and, except where injustice would result, shall give the holder

of those rights due priority in the consideration of the dispute between the parties.

(9) Where unpatented mining claims are affected by an agreement entered into in respect of the compensation referred to in subsection (2), or by an order made under subsection (4), the agreement or a certified copy of the order, as the case may be, may be filed by the person to whom the compensation is payable in the office of the recorder upon payment of the prescribed fee.

Filing of agreement or order in office of recorder

(10) Where an unpatented mining claim is subsequently leased, the Minister shall cause any agreement or order filed in the recorder's office under subsection (9) that affects the leased lands to be registered against the lands in the proper land registry office and the person to whom the compensation is payable is entitled to enforce the terms of the agreement or order against the lessee and, subject to the *Registry Act* and the *Land Titles Act*, against any subsequent lessee of the land.

Registration of order or agreement

R.S.O. 1980, cc. 445, 230

59.—(1) Subsections 94 (1), (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

(1) Upon compliance with this Act and the regulations and upon payment of the rent for the first year, the holder of a mining claim is entitled to a lease of the claim.

Right to lease of claim

(2) The application and payment for a lease may be made to the recorder at any time after the first prescribed unit of assessment work on a mining claim is performed, filed and, if necessary, approved, and the application shall be accompanied by,

Application for lease

- (a) a certificate of performance of the prescribed units of assessment work that are required to be performed as of the time of application;
- (b) a plan of survey where required under section 108 or 109;
- (c) an agreement or an order of the Commissioner indicating that surface rights compensation, if any, has been paid, secured or settled; and
- (d) the prescribed fee.

(3) A lease under this section shall be for a term of twenty-one years at the prescribed rental, payable in advance, for the first year and at the prescribed rate for each subsequent year.

Term of lease

Lease of
mining rights

(4) The holder of a mining claim may elect to apply for a lease of the mining rights only.

Rental

(5) Where a lease under this section is for mining rights only, the rental shall be at the prescribed rate for such a lease.

(2) Subsection 94 (6) of the said Act is repealed.

(3) Subsections 94 (8) and (9) of the said Act are repealed and the following substituted therefor:

Renewal
lease rental

(8) The annual rental for a renewal lease is the prescribed amount, payable in advance.

Refusal to
renew lease

(9) The Minister shall refuse to renew a lease unless,

- (a) the production of minerals has occurred continuously for more than one year since the issuance or last renewal of the lease; or
- (b) the lessee has demonstrated to the satisfaction of the Minister a reasonable effort to bring the property into production.

(4) Subsection 94 (12) of the said Act is amended by striking out "prescribed by" in the second line and inserting in lieu thereof "set out in".

(5) Subsections 94 (16), (17), (18), (19) and (20) of the said Act are repealed and the following substituted therefor:

Disposition
of surface
rights
1989, c. 23
R.S.O. 1980,
c. 413

(16) Any surface rights reserved in a lease or renewal thereof may be dealt with under the *Aggregate Resources Act*, 1989 or under the *Public Lands Act* or the regulations made under those Acts.

Additional
work where
area of claim
exceeds
prescribed
size

(17) Where the area of the mining claim exceeds by more than 15 per cent the prescribed size for a mining claim and the claim is not reduced in size under section 110, there shall be performed additional assessment work or moneys paid in lieu thereof as prescribed for the excess area.

Contiguous
claims

(18) Where there is a group of contiguous claims held in the name of one claim holder and their average area does not exceed by more than 15 per cent the size prescribed for a mining claim, the Minister may direct that subsection (17) does not apply.

(19) Where additional work is required under subsection (17), the Minister may direct the time within which such work is to be performed and reported.

Where
additional
work
required

60.—(1) Subsections 95 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) In this section, “lease” means a lease of surface and mining rights or of mining rights issued under,

Definition

(a) section 47, 52 or 100 of *The Mining Act*, being chapter 241 of the Revised Statutes of Ontario, 1960, or a predecessor thereof; or

(b) subsection 190 (3) of this Act, or a predecessor thereof,

and includes a renewal of such a lease.

(2) Subject to subsection (3), notwithstanding the provisions of a lease, the annual rental for a lease is the prescribed amount.

Amount of
rent

(2) Subsection 95 (4) of the said Act is repealed and the following substituted therefor:

(4) A lease referred to in clause (1) (a) is renewable in perpetuity for periods of ten years and every renewal shall date from the day following the expiry of the lease if application therefor is made within ninety days of the expiration of the lease or within such further period as the Minister, in the circumstances of the case, considers proper.

Renewal of
lease

(3) Subsection 95 (6) of the said Act is amended by striking out “has not been renewed under subsection (4) or” in the first and second lines.

(4) Subsection 95 (9) of the said Act is repealed and the following substituted therefor:

(9) The holder of a lease, upon application in writing therefor and upon the surrender of the lease and upon meeting the conditions set out in subsection 94 (9), may be issued a lease under section 94 for a term of twenty-one years and the rental for each year of the term thereof shall be that prescribed for the purposes of section 94 for years subsequent to the first year of a term.

Lease may
be issued
under s. 94

61. Section 96 of the said Act is repealed and the following substituted therefor:

Exchange of
lease

96.—(1) The holder of a lease issued under this Act, upon application in the prescribed form to the Minister, accompanied by the prescribed fee and upon the surrender of the lease, may be issued in exchange for that lease, on such terms and conditions as the Minister considers appropriate, two or more replacement leases.

Terms of
replacement
leases

(2) Replacement leases issued under subsection (1) shall cover together the same lands as were covered by the surrendered lease, shall be for a term equal to the balance of the term of the surrendered lease and shall be at the same rental rate per hectare as that lease.

62. Subsection 97 (4) of the said Act is repealed and the following substituted therefor:

Amount of
rent

(4) The annual rental of a lease or renewal under this section is the prescribed amount, payable in advance.

63. Subsection 102 (2) of the said Act is repealed and the following substituted therefor:

Disposition
of surface
rights
1989, c. 23
R.S.O. 1980,
c. 413

(2) Any surface rights reserved under this section may be dealt with under the *Aggregate Resources Act, 1989* or under the *Public Lands Act* or the regulations made under those Acts.

64.—(1) Subsection 108 (1) of the said Act is amended by striking out “patent” in the first line.

(2) Subsection 108 (2) of the said Act is repealed and the following substituted therefor:

Prescribed
methods of
surveying
R.S.O. 1980,
c. 493

(2) Subject to the *Surveys Act*, the prescribed methods and procedures shall be followed in the surveying of mining claims.

(3) Subsection 108 (5) of the said Act is repealed.

(4) Subsections 108 (6), (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

Additional
work where
area exceeds
prescribed
size

(6) Where a perimeter survey is made under subsection (3), the rental shall be computed on the total area of the claims within the perimeter survey and, where the average area of the claims within the perimeter survey exceeds by more than 15 per cent the prescribed size for a mining claim, there shall be performed additional assessment work or moneys paid in lieu thereof as prescribed for the excess area.

(7) Where additional work is required under subsection (6), the Minister may set out in an order the time within which such work is to be performed and recorded.

Where
additional
work
required

(8) Before a perimeter survey is made, the Minister may order the inspection of the mining claims proposed to be included in the perimeter survey and an inspector or other officer of the Ministry shall prepare and submit to the Minister a report and plan according to the instructions provided by the Minister and the survey shall not be directed to be made unless the Minister is satisfied that the requirements of this Act have been complied with.

Inspection
before
perimeter
survey made

(9) The fee for an inspection under subsection (8) is the prescribed amount, payable in advance, and the Minister may require the applicant to provide the inspector with suitable transportation to the location of the claims.

Fee

65.—(1) Subsection 109 (1) of the said Act is amended by striking out “patent” in the first line and by inserting after “claim” in the seventh line “or the perimeter survey of mining claims”.

(2) Subsection 109 (2) of the said Act is repealed.

66.—(1) Subsection 110 (1) of the said Act is amended by striking out “acreage” in the third line and in the fourth line and inserting in lieu thereof in each instance “size”.

(2) Subsection 110 (2) of the said Act is amended by striking out “licensee” in the third line and in the fourteenth line and inserting in lieu thereof in each instance “holder”.

67. The subheading preceding section 112 of the said Act is struck out and the following substituted therefor:

PETROLEUM AND NATURAL GAS

68. Parts V and VI of the said Act are repealed.

69. The said Act is further amended by adding thereto the following Part:

PART VII

SURFACE MINING OF NON-METALLIC MINERALS

118.—(1) Any person who proposes to commence the surface mining of non-metallic minerals, excluding natural gas and petroleum, on Crown land not in a part of Ontario that

Surface
mining of
non-metallic
minerals

R.S.O. 1980,
c. 378
1989, c. 23

has been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*, may proceed,

- (a) by applying for and obtaining an aggregate permit or a licence under the *Aggregate Resources Act, 1989*; or
- (b) by complying with the requirements of Part II of this Act.

Lease of
Crown land

(2) Any person who proposes to commence the surface mining of non-metallic minerals, excluding natural gas and petroleum, on Crown land in a part of Ontario that has been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*, in addition to an aggregate permit or a licence issued under the *Aggregate Resources Act, 1989*, may also obtain a lease from the Crown for the lands affected by complying with the provisions of Part II of this Act.

Staking out
of mining
claim

119. Notwithstanding that an aggregate permit or a licence has been obtained under the *Aggregate Resources Act, 1989*, any licensee under this Act may stake out a mining claim or claims on Crown land affected by the permit or licence, in which case the provisions of this Act apply and any question of property damage shall be determined in the manner set out in section 92.

70.—(1) Subsection 131 (1) of the said Act is amended by striking out “licensees” in the third line and inserting in lieu thereof “persons”.

(2) Subsection 131 (2) of the said Act is amended by striking out “arising before the issue of a certificate of record of a mining claim” in the first and second lines.

(3) Subsection 131 (6) of the said Act is repealed and the following substituted therefor:

Recorder
may order
the removal
of witness
posts, etc.

- (6) The recorder may make an order directing a holder,
 - (a) to move, remove or alter corner posts, line posts or witness posts and the writing or inscribing thereon;
 - (b) to blaze, re-blaze, move or alter existing or missing claim lines;

- (c) to place or replace metal tags that are missing or have been removed or destroyed after having been affixed to any posts; or
- (d) to place or replace missing or defective posts and to affix tags to such posts,

and the recorder shall set out in the order the time within which the work shall be completed and reported to the recorder.

(6a) Where the work set out in an order under subsection (6) has been completed within the time set out in the order, the claim shall thereafter be deemed to be in compliance with this Act.

Claim
deemed in
compliance
with Act

(4) Subsection 131 (7) of the said Act is repealed and the following substituted therefor:

(7) Where the work set out in an order under subsection (6) has not been completed within the time set out in the order, the recorder may extend the time for completing the work or may cancel the claim or claims on which the work was to have been done and shall, in the case of cancellation, by registered letter, mailed not later than the next day after the cancellation, notify the holder of the recorder's action and the reason therefor.

Recorder
may extend
time or
cancel claim

(5) Subsection 131 (8) of the said Act is repealed and the following substituted therefor:

(8) This section applies to the manner in which the metal tags have been affixed to the corner posts notwithstanding that the time prescribed for affixing the tags has not expired.

Application

71. Subsection 133 (2) of the said Act is repealed and the following substituted therefor:

(2) Where, in the opinion of the Minister, the public interest is affected by a decision, act or thing mentioned in subsection (1), an officer or employee of the Ministry designated by the Minister for that purpose may,

Where public
interest
affected

- (a) be added as a party to an appeal taken under subsection (1); or
- (b) take an appeal under subsection (1), in which case no fee in respect of the appeal is payable.

72.—(1) Subsection 135 (1) of the said Act is repealed and the following substituted therefor:

Application
for
appointment
for hearing

(1) Application to the Commissioner for an appointment for a hearing may be made in writing by any party to the proceeding upon such notice and to such persons as the Commissioner directs and shall be accompanied by the prescribed fee for recording any order made by the Commissioner in the matter.

(2) Subsection 135 (4) of the said Act is repealed and the following substituted therefor:

Leave for
hearing

(4) In any matter or proceeding, other than an appeal, in any case where leave to take the proceeding is necessary, the Commissioner may give leave upon such terms as to security for costs or otherwise as the Commissioner considers just.

73.—(1) Clause 137 (1) (b) of the said Act is amended by inserting after “things” in the third line “under oath or otherwise”.

(2) Subsection 137 (1) of the said Act is amended by striking out “and” at the end of clause (d) and by adding thereto the following clauses:

1984, c. 11

(f) upon the application of a party to the proceedings, order the examination of any other party before an official examiner appointed under the *Courts of Justice Act, 1984*; and

(g) order any party to the proceedings who intends to present evidence at the hearing to file with the Commissioner and serve on each of the other parties, prior to the appearance of any witness and within such time as the Commissioner directs, a statement indicating the evidence intended to be relied upon.

74.—(1) Section 150 of the said Act is amended by adding thereto the following subsections:

When order
of Commis-
sioner takes
effect

(1a) Every order or judgment of the Commissioner shall take effect immediately upon its signing, subject to any express provision therein.

Oral reasons
R.S.O. 1980,
c. 484

(1b) Notwithstanding section 17 of the *Statutory Powers Procedure Act*, the reasons for a decision of the Commissioner may be delivered orally.

(1c) Any party to a proceeding may cause an order or judgment of the Commissioner to be filed in the office of the recorder. Filing of order

(1d) The recorder shall forthwith give notice in writing of the filing by registered mail or otherwise to the solicitors of the parties appearing by solicitor and to the parties not represented by a solicitor. Notice of filing

(1e) Where the order or judgment is not filed with the recorder within fifteen days of the order being signed, the Commissioner shall cause a duplicate thereof to be filed with the recorder. Filing of duplicate order

(2) Subsections 150 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) The Commissioner shall transmit the evidence, the exhibits, the statement, if any, of view or of special knowledge or skill, and the reasons for any order or judgment to the recorder. Transmission of evidence, etc., to recorder

75. Section 151 of the said Act is repealed and the following substituted therefor:

151. Where a decision of the Commissioner finally disposes of the matter in question so far as the Commissioner is concerned, the Commissioner shall send the order or judgment to the parties by registered mail. Final order or judgment sent to parties

76. Section 152 of the said Act is repealed and the following substituted therefor:

152. Any party to a proceeding is entitled on payment of the prescribed fee to a certified copy of any order or judgment. Certified copy of order or judgment

77. Part IX of the said Act is repealed and the following substituted therefor:

PART IX

OPERATION OF MINES

160.—(1) In this Part,

Definitions

“abandoned” means the proponent has ceased or suspended indefinitely advanced exploration, mining, or mine production on the site, without rehabilitating the site;

“advanced exploration” means the excavation of an exploratory shaft, adit, or decline, the extraction of material in excess of the prescribed quantity, the installation of a mill for test purposes or any other prescribed work;

“closed out” means that all the requirements of an accepted closure plan have been complied with and is the final stage of closure;

“closure” means the temporary suspension, inactivity or close out of advanced exploration, mining or mine production;

“closure plan” means a plan prepared in the prescribed manner to rehabilitate a project at any stage of closure and includes the information, particulars, maps and plans prescribed, as well as provision in the prescribed manner of financial assurance to the Crown for the performance of the requirements of the closure plan;

“Director” means the Director of Mine Rehabilitation for the mining division or divisions in which is situate the land in respect of which an act, matter or thing is to be done under this Part;

“inactivity” means that advanced exploration, mine production and mining operations on a site have been suspended indefinitely in accordance with a closure plan, and although protective measures are in place on the site, the site is no longer being monitored by the proponent on a continuous basis;

“mine production” means mining that is producing any mineral or mineral-bearing substance either for immediate sale or for stockpiling for ultimate sale;

“progressive rehabilitation” means rehabilitation done continually and sequentially, within a reasonable time, during the entire period that the project continues;

“project” means a mine or the activity of advanced exploration, mining or mine production;

“proponent” means the holder of an unpatented mining claim or licence of occupation or an owner as defined in paragraph 21 of section 1;

“protective measures” means steps taken in accordance with the prescribed standards to prevent personal injury or property damage that is reasonably foreseeable as a result of closure commencing;

“rehabilitate” means measures taken in accordance with the prescribed standards to treat the land or lands on which—advanced exploration, mining or mine production has occurred so that the use or condition of the land or lands,

- (a) is restored to its former use or condition, or
- (b) is made suitable for a use that the Director sees fit, and includes taking protective measures;

“site” means the land or lands on which a project is located;

“temporary suspension” means advanced exploration, mining or mine production have been suspended, in accordance with an accepted closure plan, on either a planned or unplanned basis, but the site is being monitored on a continuous basis by the proponent and protective measures are in place.

(2) For greater certainty, but without restricting the scope of this Part, this Part applies to projects including, Application of Part

- (a) the underground mining of minerals, excluding natural gas, petroleum and salt by brining method;
- (b) the surface mining of metallic minerals;
- (c) the surface mining of non-metallic minerals, excluding natural gas and petroleum, on land that is neither Crown land nor land in parts of Ontario that have been designated under the *Pits and Quarries Control Act* or under subsection 5 (2) of the *Aggregate Resources Act, 1989*;
- (d) advanced exploration on mining lands.

R.S.O. 1980,
c. 378
1989, c. 23

DIRECTORS AND MINERAL DEVELOPMENT OFFICERS

161.—(1) The Minister may appoint as Mineral Development Officers such employees of the Ministry as the Minister considers necessary, whose function it is to co-ordinate and expedite communication between the mining industry, the public and affected ministries and agencies of the Government of Ontario.

Mineral
Development
Officers

(2) The Minister may appoint an officer or employee of the Ministry as Director of Mine Rehabilitation for each such mining division or group of mining divisions as the appointment specifies.

Directors

ADVANCED EXPLORATION

Closure plan,
advanced
exploration

161a.—(1) No proponent shall commence or recommence advanced exploration without providing the Director with notice in the form and manner prescribed and the project may proceed unless, within thirty days of receiving the notice, the Director in writing has required the proponent to,

- (a) give public notice at the prescribed time and in the prescribed form and manner;
- (b) submit a proposed closure plan; or
- (c) comply with both clauses (a) and (b).

Where public
notice only
required

(2) Where the Director has required the proponent to give public notice only under clause (1) (a), the project may proceed after public notice has been given.

Changes to
closure plan

(3) Where the Director has required the proponent to submit a proposed closure plan under clause (1) (b),

- (a) the Director may by written notice require changes to the proposed closure plan; and
- (b) the project shall not proceed until the Director has accepted in writing the closure plan, and the public notice, if required under clause (1) (a), has been given.

MINE PRODUCTION

Closure plan,
mine
production

161b.—(1) No proponent shall commence or recommence mine production without,

- (a) providing the Director with notice in the prescribed form and manner;
- (b) giving public notice at the prescribed time and in the prescribed form and manner;
- (c) submitting a proposed closure plan; and
- (d) receiving the Director's written acceptance of the closure plan required by clause (c).

Changes to
closure plan

(2) The Director may require changes to a proposed closure plan required by clause (1) (c) prior to accepting it.

PROGRESSIVE REHABILITATION

161c.—A proponent shall take all reasonable steps to progressively rehabilitate a site whether or not closure has commenced or an accepted closure plan is in place.

Progressive
rehabilitation

CLOSURE PLANS

161d.—(1) Every proponent whose project is subject to a closure plan accepted under this Part shall comply with the closure plan.

Compliance
with closure
plan

(2) Where closure commences on a site, subject to a closure plan, the proponent shall,

Notice
closure has
commenced

(a) forthwith notify the Director in writing that closure has commenced; and

(b) comply with the requirements of the closure plan.

(3) Where a project has commenced or recommenced under section 161a or 161b, within twelve months of the commencement or recommencement, and for every twelve-month period following thereafter while the project continues, the proponent shall submit annually to the Director a report prepared in the prescribed manner.

Annual
report to
Director

(4) If, on the receipt of the report required under subsection (3) or on the basis of information received from a rehabilitation inspector under subsection 161f (1), the Director has reasonable grounds for believing,

Submission
of, or
amendments
to, closure
plan

(a) that the closure plan, including the financial assurance requirement, is inadequate to properly rehabilitate the site because the project has either expanded or other conditions have changed; or

(b) in the case of an advanced exploration project not currently subject to a closure plan, the project has expanded or other conditions have changed to a point which necessitate a closure plan,

the Director may require by written notice the proponent to submit to the Director a proposed closure plan for the Director's consideration, or, where a closure plan is already in place, to submit proposed amendments to a closure plan, including proposals respecting an increase in the amount of financial assurance required to rehabilitate the site.

Notice of expansion or alteration of project

(5) Where a proponent plans to expand or alter a project, the proponent shall forthwith give written notice in the prescribed form to the Director.

Changes to closure plan

(6) Where the Director has received either proposed amendments to existing closure plans or proposed closure plans under subsection (4), the Director may require changes to the proposed amendments or plan before notifying the proponent that the proposed amendments or plan are acceptable.

Project subject to plan or amended plan

(7) Upon receipt of the written notice of the Director that the proposed amendments or plan that may be required under subsection (4) are acceptable, the project shall operate subject to the plan or amended plan, as the case may be.

FINANCIAL ASSURANCE

Form and amount of financial assurance
R.S.C. 1985,
c. B-1
R.S.O. 1980,
c. 192

161e.—(1) The financial assurance required as part of a closure plan shall be in the form of cash, a letter of credit from a bank named in Schedule I to the *Bank Act* (Canada), a bond of a guarantee company approved under the *Guarantee Companies Securities Act* or another form of security acceptable to the Director and shall be in the amount specified in the closure plan accepted by the Director or any amendment thereto.

Order providing for performance of rehabilitation measure

(2) Where the Director has reasonable and probable grounds to believe that any rehabilitation measure required by the accepted closure plan in respect of which financial assurance was given has not been or will not be carried out in accordance with the closure plan, the Director by order may provide for the performance of the rehabilitation measure in the manner set out in subsection (5).

Notice

(3) The Director shall give the proponent written notice of the Director's intention to issue the order referred to in subsection (2) at least forty-five days prior to the date the order is to be issued.

Parties affected

(4) Both the notice and the order under this section shall be directed to the proponent to whom the approval for the closure plan was issued or directed and to any person to the knowledge of the Director that has provided the financial assurance for or on behalf of the proponent to whom the approval of the closure plan was issued or shall be directed to the successor or assignee of such person.

Realization of security

(5) Upon the issuance of an order by the Director under subsection (2), the Crown may,

- (a) use any cash;
- ~~(b) realize any bond or letter of credit; and~~
- (c) enforce any other security,

provided or obtained as the financial assurance for the performance of the rehabilitation measures and may carry out the rehabilitation measures, or appoint an agent to do so, as the Director considers necessary.

(6) A proponent may apply to the Director for a reduction of the financial assurance to an amount consistent with the financial requirements of the rehabilitation work left to be completed where,

Application
for reduction
of financial
assurance

- (a) work has been performed in accordance with the requirements of an accepted closure plan; or
- (b) a reduction in the financial assurance requirement is justified in a report submitted under subsection 161d (3).

REHABILITATION INSPECTORS

161f.—(1) For the purposes of monitoring the closure of projects, including mines that have been abandoned, the Minister may designate in writing any person who may, but need not be, an employee of the Ministry as a rehabilitation inspector.

Rehabili-
tation
inspectors

(2) For the purpose of carrying out the duties and exercising the powers under this Part, a rehabilitation inspector may, without a warrant or court order, at any reasonable time and with any reasonable assistance, make inspections, and in the exercise of that authority may,

Inspections
by rehabili-
tation
inspector

- (a) enter into or onto any mining lands or premises connected or associated with any project or abandoned mine, other than a room or place actually used as a dwelling;
- (b) make such inspections, examinations, inquiries or tests considered necessary in order to determine the nature and extent of any existing or potential hazards on mining lands;
- (c) in any inspection, examination, inquiry or test, be accompanied and assisted by any person having special, expert or professional knowledge of any

matter relevant to the inspection, examination, inquiry or test;

- (d) request the production of any drawings, specifications, licence, document, record or report;
- (e) on giving a receipt therefor, remove any drawing, specifications, licence, document, record or report produced in response to a request under clause (d) for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the person who produced them;
- (f) inspect any work related to rehabilitation necessary to complete a report to the Director under subsection (1); and
- (g) make reasonable inquiries of any person, orally or in writing.

Inspection to
be permitted

(3) A proponent shall forthwith on request permit a rehabilitation inspector to carry out any inspection of any place, other than any room actually used as a dwelling, under subsection (2).

Obstruction
prohibited

(4) No person shall hinder or obstruct a rehabilitation inspector in the lawful performance of duties or furnish the rehabilitation inspector with false information or refuse to furnish information required for the purposes of this Part and the regulations.

Inspection
warrant

(5) Where a provincial judge or justice of the peace is satisfied on evidence upon oath by a rehabilitation inspector that there is reasonable ground for believing that it is appropriate for the administration of this Part or the regulations made thereunder for the rehabilitation inspector to do anything set out in subsection (2), and that the rehabilitation inspector may not be able to effectively carry out the duties assigned without an order under this section because,

- (a) a person has prevented the rehabilitation inspector from doing anything set out in subsection (2);
- (b) there is reasonable ground to believe that a person may prevent a rehabilitation inspector doing anything set out in subsection (2); or
- (c) it is impractical because of the remoteness of the place to be inspected or because of any other reason, for the rehabilitation inspector to obtain an

order under this section without delay if access is denied,---

the judge or justice may issue or renew a warrant in the prescribed form authorizing the rehabilitation inspector named in the warrant to do anything set out in subsection (2) and specified in the warrant for the period of time set out in the order.

(6) Where a provincial judge or justice of the peace is satisfied on evidence upon oath of a rehabilitation inspector that there is reasonable and probable ground for believing that,

Search
warrant

- (a) an offence under this Part has been committed; and
- (b) the entry into and search of a place actually used as a dwelling will afford evidence as to the commission of the offence,

the judge or justice may issue or renew a warrant in the prescribed form authorizing the rehabilitation inspector named in the warrant to enter and search the room or place with such reasonable assistance as may be necessary and upon giving a receipt therefor to remove from the room or place any document or thing that may afford evidence of the offence for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the room or place from which they were removed.

(7) A warrant under subsection (5) or (6) shall be executed at reasonable times as specified in the warrant and shall state the date upon which it expires, which shall be not later than fifteen days after the warrant is issued.

When to be
executed and
expiry

(8) Copies of, or extracts from, documents or things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Admissibility
of copies

(9) Upon request, a rehabilitation inspector who exercises a power set out in subsection (2) shall identify himself or herself as a rehabilitation inspector either by the production of a copy of the rehabilitation inspector's designation or in some other manner and shall explain the purpose of the inspection.

Identification

EXISTING PROJECTS

161g.—(1) Within ninety days of the coming into force of this Part, every proponent of a producing mine or of a mine

Notice to
Director

from which production is temporarily suspended shall give a notice in writing to the Director that contains the prescribed information relating to that mine.

Determi-
nation of
Minister of
time for
submission of
closure plan

(2) On the Director receiving a notice under subsection (1), the Minister shall determine the period of time within which the proponent must submit to the Director a proposed closure plan in respect of that mine.

Notice to
proponent by
Director

(3) The Director shall notify in writing a proponent who has given notice under subsection (1) of the period of time determined by the Minister within which the proponent must submit to the Director a proposed closure plan.

Submission
of closure
plan to
Director

(4) A proponent who has received a notice under subsection (3) shall submit the required closure plan to the Director within the period of time specified in the notice.

Notice to
submit
closure plan

(5) The Director, within ninety days of the coming into force of this Part, may notify in writing any proponent of advanced exploration that has commenced before and is continuing on the day this Part comes into force of the period of time within which the proponent must submit a proposed closure plan.

Submission
of closure
plan to
Director

(6) A proponent who has received a notice under subsection (5) shall submit the required closure plan to the Director within the time specified in the notice.

Changes to
closure plan

(7) Prior to the Director informing the proponent that the closure plan required under subsection (4) or (6) is acceptable, the Director may by written notice require changes to the closure plan.

Mine to
operate
subject to
closure plan

(8) On receiving written notification from the Director that the closure plan required under subsection (4) or (6) is acceptable, the project shall operate subject to the closure plan and sections 161c, 161d, 161e and 161f shall apply.

Where
project
abandoned
after Part
comes into
force

161h.—(1) Notwithstanding section 161g, where a proponent takes steps to abandon the project on either an indefinite or permanent basis after the day this Part comes into force but before the Director informs the proponent that the closure plan required under subsection 161g (4) or (6) is acceptable, the proponent shall give written notice to the Director and shall take all reasonable steps to rehabilitate the site.

Order to
rehabilitate
site

(2) Where the Director has reasonable grounds for believing that a proponent has not complied with subsection (1), the Director may order the proponent to rehabilitate the site.

(3) Where, within a reasonable period of time, a proponent fails to comply with the order of the Director made under subsection (2), the Director may declare the project abandoned and may have the Crown or an agent thereof enter onto or into the site to implement rehabilitative measures.

Declaration
that mine
abandoned

(4) The Director shall not have the Crown or an agent thereof take the measures referred to in subsection (3) until the Director has given the proponent notice in the prescribed form and manner of the Director's declaration.

Notice of
declaration

(5) Where under subsection (3) the Director has declared a project abandoned and the proponent has possession of the site as a lessee, the Lieutenant Governor in Council, on the recommendation of the Minister, may declare the lease void, and subsections 94 (12), (13) and (14) apply with necessary modifications.

Declaration
that lease
void

(6) The Director shall not take the steps referred to in subsection (5) until the Director has given the proponent the prescribed notice required under subsection (4), including in that notice the Director's intention to recommend to the Minister the steps referred to in subsection (5).

Notice to
proponent

161i.—(1) The Director may by written notice require the proponent of a project the Director considers abandoned on the day this Part comes into force to submit within a specified period of time a proposed closure plan to rehabilitate the site.

Where
project
abandoned
when Part
comes into
force

(2) Prior to the Director informing the proponent that a closure plan required under subsection (1) is acceptable, the Director may by written notice require changes to the closure plan.

Changes to
closure plan

(3) On receiving written notification from the Director that a closure plan required under subsection (1) is acceptable, the proponent shall complete the rehabilitation of the site in accordance with the closure plan.

Rehabili-
tation of site

(4) Where the proponent of a site fails to comply with the Director's requirements under subsection (1) or (2), the Director may declare the project abandoned and may have the Crown or an agent of the Crown enter onto or into the site to implement rehabilitative measures.

Declaration
that mine
abandoned

(5) The Director shall not have the Crown or an agent thereof take the steps referred to in subsection (4) until the Director has given the proponent notice in the prescribed form and manner of the Director's declaration.

Notice of
declaration

Declaration
that lease
forfeited

(6) Where under subsection (4) the Director has declared a project abandoned and the proponent has possession of the site as a lessee, the Lieutenant Governor in Council, on the recommendation of the Minister, may declare the lease void, and subsections 94 (12), (13) and (14) apply with necessary modifications.

Notice to
proponent

(7) The Director shall not take the steps referred to in subsection (6) until the Director has given the proponent the prescribed notice required under subsection (5), including in that notice the Director's intention to recommend to the Minister the steps referred to in subsection (6).

VOLUNTARY SURRENDER OR ABANDONMENT

Refusal of
voluntary
surrender

161j.—(1) Before accepting the voluntary surrender of lands referred to in section 198, where the Director has reasonable grounds for believing that the proponent may have failed to rehabilitate the site in a manner consistent with a closure plan accepted by the Director, or where no closure plan exists, in accordance with the prescribed standards for rehabilitation, the Minister may refuse to accept the surrender of such lands, and, upon such refusal, the Director may order the proponent to comply with the requirements of the accepted closure plan or to rehabilitate the site in accordance with the prescribed standards.

Application
for injunction

(2) Where the proponent subject to an order under subsection (1) is an owner, the Director may register the order against the land or lands comprising the site in the proper land registry office and may apply to a Justice of the High Court for an injunction preventing the sale of the land or lands comprising the site, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands.

Refusal of
consent to
transfer lease

(3) Where the proponent subject to an order under subsection (1) is a lessee, the Director may recommend to the Minister that the Minister not consent to the transfer of the lease.

Where lease
expires

(4) Where the proponent subject to a Director's order under subsection (1) is a lessee under a lease which expires during the period in which the Director's order is in force, the lessee is not by reason only of the expiry of the lease relieved of the lessee's duties under this section.

Refusal of
consent to
transfer of
licence

(5) Where the proponent subject to an order under subsection (1) is the holder of a licence of occupation, the Direc-

tor may recommend to the Minister that the Minister not consent to a transfer of the licence.

(6) Notwithstanding section 83, where the proponent is a mining claim holder and where the Director has reasonable grounds for believing that the proponent may have failed to rehabilitate the site in a manner consistent with a closure plan accepted by the Director, or where no closure plan exists, in accordance with the prescribed standards for rehabilitation, the holder may not abandon the mining claim and the Director may order the proponent to comply with the requirement of the accepted closure plan, or to rehabilitate the site in accordance with the prescribed standards.

Where mining claim not to be abandoned

(7) If a person subject to an order under subsection (1) or (6) fails to comply with the order, the Director may,

Realization of security

- (a) where a closure plan applies, proceed and realize on the financial assurance under the provisions of section 161e; or
- (b) where no closure plan is in place, have the Crown, or an agent thereof, carry out rehabilitation measures in accordance with the prescribed standards.

COST OF WORK COMPLETED

161k.—(1) Where under subsection 161h (3) or 161i (4) the Director has the Crown or an agent of the Crown carry out rehabilitation measures, the resulting cost to the Crown is a debt due to the Crown and,

Where cost debt due to Crown

- (a) forms a lien and a charge on the site in favour of the Crown, realizable by action for sale of any part or all of the land or lands subject to it, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

(2) The cost to the Crown of carrying out the rehabilitative measures under clause 161j (7) (b) is a debt due to the Crown recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

Idem

(3) Where under subsection 161e (5) the Crown or an agent of the Crown carries out rehabilitation measures and the

Idem

financial assurance held by the Crown is insufficient to cover the total cost incurred by the Crown in completing the rehabilitation measures, the extra cost not covered by the financial assurance is a debt due to the Crown which,

- (a) forms a lien and a charge on the site in favour of the Crown realizable by action for sale of any part or all of the land or lands comprising the site subject to the lien, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected.

Registration
as charge

(4) Notice of the debt described in subsections (1) and (3) may be registered as a charge in the proper land registry office and no transfer of or other dealing with the site shall take place until the debt is paid and the notice is cancelled.

HEARINGS AND APPEALS

Appeal to
Commis-
sioner

161-1.—(1) Where the Director,

- (a) requires a closure plan under clause 161d (4) (b) or subsection 161i (1);
- (b) requires changes to either an existing or proposed closure plan under subsection 161a (3), 161b (2), 161d (6), 161g (7) or 161i (2);
- (c) orders the performance of rehabilitation measures under subsection 161e (2);
- (d) orders the proponent to rehabilitate the site under subsection 161h (2); or
- (e) declares a project abandoned under subsection 161h (3) or 161i (4),

the proponent may appeal the Director's requirement, order or declaration to the Commissioner, if within thirty days of receiving the notice of the Director requiring the changes or proposed closure plans referred to in clause (a) or (b), receiving a Director's order referred to in clause (c) or (d), or receiving a Director's declaration referred to in clause (e), the proponent serves the Director with the prescribed notice requiring a hearing before the Commissioner, and, within

thirty days of being served, the Director shall refer the matter to the Commissioner for the hearing.

(2) On the service of a notice on the Director under subsection (1) requiring a hearing before the Commissioner, the requirement, order or decision of the Director is stayed until the disposition of the appeal by the Commissioner, unless upon application with notice by the Director, the Commissioner removes the stay where the matter relates to,

Automatic stay unless removed

- (a) changes to either an existing or proposed closure plan referred to in clause (1) (b); or
- (b) an order requiring the performance of rehabilitation measures referred to in clause (1) (c) or (d).

(3) Notwithstanding subsection (2), where the proponent appeals to the Commissioner under subsection (1) from a Director's requirement for changes to an existing closure plan under subsection 161d (4) and one of the changes required is to increase the amount of financial assurance required for the closure plan, the Commissioner shall refuse to hear the appeal unless the proponent has provided to the Director along with the notice required under subsection (1) the extra amount of financial assurance required under the closure plan to be held by the Crown pending the outcome of the proponent's appeal.

Provision of additional financial assurance

(4) The Commissioner upon application with notice by the proponent may waive the requirement under subsection (3) if the Commissioner considers it just to do so.

Waiver

(5) Upon hearing the appeal of the proponent, the Commissioner may confirm, alter or revoke the action of the Director that is the subject-matter of the hearing.

Power of Commissioner on appeal

(6) Sections 135, 136, 137 and 139 to 152 of this Act apply to appeals under this section with necessary modifications.

Application

(7) An appeal lies to the Divisional Court on a question of law from any decision of the Commissioner under subsection (5) in accordance with the Rules of Civil Procedure.

Appeal to Divisional Court

(8) A party to a hearing before the Commissioner may, within thirty days after receipt of the Commissioner's decision or within thirty days after final disposition of an appeal, if any, under subsection (7), appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Commissioner as to the matter in appeal as the Minister considers in the public interest.

Appeal to Minister

Parties

(9) The person requiring the hearing, the Director and any other person specified by the Commissioner are parties to the hearing.

SERVICE

Service of notice

161m.—(1) Any notice required to be served under this Part or the regulations made in respect thereto is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is to be made at the last address of service appearing on the records of the Ministry.

When service deemed made

(2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes the person did not, acting in good faith, and for a cause beyond that person's control, receive a notice until a later date.

PART IX-A

BRINE WELLS

Definitions

162.—(1) In this section,

“brine well” means a hole or opening in the ground for use in brining;

“brining” means the extraction of salt in solution by any method;

“chief engineer” means a person designated by the Minister as chief engineer for the purposes of this section.

Permit to bore or drill a brine well

(2) No person shall drill or bore a brine well except under the authority of a permit in writing issued by the chief engineer upon application therefor in the prescribed form.

Permits not issued

(3) A permit shall not be issued,

(a) to authorize a person to drill or bore a brine well on property in which the person does not own, hold or lease, or is not otherwise entitled to, the mining rights; or

(b) where the proposed brine well is nearer the boundary of such property than 150 metres.

Location of brine well

(4) The chief engineer may reduce or extend the distance referred to in clause (3) (b) where in his or her opinion it is

advisable to do so and shall notify the applicant of any such reduction or extension within thirty days from the date upon which the application for the permit is filed.

(5) A permit is subject to the condition that the brine well in respect of which it is issued is bored or drilled in the location described in the permit. Condition of permit

(6) A permit shall be issued or refused within thirty days from the date on which the application therefor is filed, except that, where notice has been given by the chief engineer under subsection (4), the permit shall be issued upon the receipt by the chief engineer of the applicant's consent thereto. Time for issuance of permit

(7) Where a person drills or bores a brine well, he or she shall forward a log of the drilling or boring in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the drilling or boring operations, and, upon the person's request in writing, the log shall be confidential for a period of six months. Log of drilling operations

(8) A person boring or drilling a brine well shall take such reasonable measures as are necessary to control the infiltration of water from one horizon to any other horizon that may be penetrated during the drilling or boring operations. Protection of water horizons

(9) All brine wells shall be cased and equipped so as to reasonably ensure against the uncontrolled flow of oil, natural gas, brine or water. Protection of deposits

(10) Casing and equipment shall be in good condition and of a thickness and strength adequate to withstand any fluid pressure to which they might normally be subjected. Standard of casing and equipment

(11) Where practicable, all brine wells shall be plugged by the person operating them, before being abandoned, in a manner that will, Plugging of abandoned wells

(a) reasonably ensure that salt horizons and potential oil or natural gas producing horizons are protected; and

(b) retain water and brine in their original formations.

(12) Before commencing to plug a brine well, the person proposing to carry out the plugging operations shall report the particulars thereof to the chief engineer in the prescribed form. Report of proposed plugging

Record of
plugging
operations

(13) Where a person plugs a brine well, he or she shall forward a record of the plugging in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the plugging operations.

PART IX-B

STATISTICAL RETURNS

Annual
report

163.—(1) For the purposes of tabulation, every owner of a mine shall, on or before the 31st day of March in each year, send to the Minister on the forms provided a report of activities for the preceding year ending on the 31st day of December showing,

- (a) the nature of the work performed and the sums spent on mining and exploration;
- (b) the sums allocated for capital expenditures and repairs;
- (c) the current state of ore reserves;
- (d) the quantity and value of mineral production;
- (e) the number of employees; and
- (f) the revenues and expenses entailed in mining and exploration activities,

and the report shall be accompanied by such other information, plans and documents as the Minister requires, including, without limiting the scope of the requirement, information, plans and documents respecting,

- (g) inventory;
- (h) fuel and electricity consumed;
- (i) mining supplies and materials used;
- (j) non-mining supplies and materials used;
- (k) mining products, shipments and destinations;
- (l) non-mining products;
- (m) production details; and
- (n) wastes produced.

(2) The Minister may require an owner to send monthly or quarterly reports within such times as the Minister specifies. Monthly or quarterly report

(3) In the event of the bankruptcy or winding-up of an owner, the trustee or liquidator shall, at the request of the Minister, send the report to the Minister. Bankruptcy, etc.

(4) The Minister may require a licensee or permittee operating a pit or quarry under the *Aggregate Resources Act, 1989* to send information to the Minister in accordance with this section, and, where the Minister does so, subsections (1), (2) and (3) apply with necessary modifications. Pit or quarry operations 1989, c. 23

78. Section 175 of the said Act is repealed.

79. Section 176 of the said Act is repealed and the following substituted therefor:

176.—(1) Every person who contravenes any provision of Part IX or the regulations made in respect thereto is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues. Penalty for offence against Part IX

(2) Every person who is subject to a Director's order under Part IX and who fails to take all reasonable steps to obey the conditions of the order is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues. Failure to comply with order of Director

(3) Where any person fails to, Application for restraining order

(a) comply with section 161a or 161b before commencing or recommencing a project;

(b) comply with an accepted closure plan as required under subsection 161d (1);

(c) submit the report required under subsection 161d (3);

(d) give the Director notice of a planned expansion or alteration as required by subsection 161d (5); or

(e) give the notice required under subsection 161g (1) or submit a closure plan required under subsection 161g (4) or (6),

the Director may apply at any time to a Justice of the High Court for an order prohibiting advanced exploration, mining or mine production on the site.

Destruction,
etc., of
rehabilitation
works

(4) Every person who alters, destroys, removes or impairs any rehabilitation work made in accordance with Part IX or an accepted closure plan without the written consent of the Minister is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

Duty of
directors and
officers

(5) Every director or officer of a corporation that engages in a project under Part IX has a duty to take all reasonable care to ensure that the corporation complies with the requirements of that Part.

Offence

(6) Every person who has a duty under subsection (5) and who fails to carry out that duty is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Liability of
directors and
officers

(7) A director or officer of a corporation is liable to conviction under subsection (6) whether or not the corporation has been prosecuted and convicted.

Increase in
fine equal to
monetary
benefit

(8) The court that convicts a person of an offence under Part IX, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of monetary benefit acquired by, or that accrued to, the person as a result of the commission of the offence, notwithstanding the imposition of the maximum fine provided for that offence.

Offence
1989, c. 23

176a. Every owner of a mine and every licensee or permittee operating a pit or quarry under the *Aggregate Resources Act, 1989* who contravenes section 163, or who makes a report under that section that is, to the owner's, licensee's or operator's knowledge, false in any particular, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each day on which the offence occurs or is continued.

80. Clause 177 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) by a rehabilitation inspector.

81. Part XII of the said Act is repealed.

82. Section 190 of the said Act, as amended by the Statutes of Ontario, 1988, chapter 48, section 2, is repealed and the following substituted therefor:

190.—(1) The Lieutenant Governor in Council may make Regulations regulations generally,

1. governing the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands sold or leased as mining lands or recorded as mining claims or locations under this Act or a predecessor thereof, and for the opening, construction or maintenance and use of ditches, aqueducts or raceways through, over or upon such claims, locations or lands for the conveying and passage of water for mining purposes;
2. prescribing the form of any application, notice, report, log, record, dispute, certificate, permit, statement or other document required, permitted or provided for, by or under this Act;
3. prescribing the amount of any fee required to be paid to the Minister, the Ministry, the Commissioner or a recorder by or under this Act;
4. prescribing the manner of staking and the size and form of mining claims and the time and manner of affixing tags in respect thereto;
5. prescribing the annual rental for a licence of occupation;
6. prescribing the information to be shown on a sketch or plan accompanying an application to record a mining claim;
7. prescribing, for the purposes of subsection 62 (1), the conditions on which permission may be given to mine, mill and refine mineral substance from an unpatented mining claim;
8. prescribing the annual units of assessment work to be performed by the holder of a mining claim;
9. prescribing, for the purposes of subsection 76 (2), locations, other than the office of the recorder, in which may be filed assessment work reports and prescribing the date reports in respect of specified types of assessment work shall be filed;
10. prescribing the types of work eligible for assessment work credits, the method of calculating and approv-

ing credits for work performed and the manner of distribution of credits to mining claims;

11. prescribing the manner in which prospecting and regional surveys performed before staking are eligible for assessment work credits;
12. prescribing the manner in which exploration work performed on patented mining claims may be allocated to contiguous unpatented mining claims;
13. prescribing the conditions on which an extension of time for the performing of and filing a report on assessment work may be allowed by a recorder;
14. prescribing the annual rental for the first year for a lease of a mining claim, the rate for each subsequent year and the annual rental for a renewal lease;
15. prescribing the rental rate for the mining rights only in respect of a mining claim;
16. prescribing the additional assessment work to be performed in respect of any excess area of a mining claim or in respect of excess average area of mining claims within a perimeter survey;
17. prescribing, for the purposes of subsection 83 (2), the conditions on which the holder of a mining claim may abandon part of the claim;
18. prescribing the annual rental of a lease referred to in section 95;
19. prescribing the annual rental of a lease or renewal lease of surface rights referred to in section 97;
20. prescribing the methods and procedures to be followed in the surveying of mining claims;
21. prescribing the rate of interest to be imposed in the cases mentioned in subsections 196 (2) and 211 (2);
22. prescribing, for the purposes of subsection 198 (3), the size, form, manner and time of staking out and recording mining claims on land in which an interest is retained after surrender;

23. prescribing, for the purposes of section 202, the amount of tax to be paid for each hectare;
24. prescribing classes of instruments and documents that may be filed through transmission by electronic means in such manner as is prescribed;
25. defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act;
26. prescribing anything that by this Act is to be or may be prescribed.

(2) The Lieutenant Governor in Council may make regulations relating to Part IX, Idem

1. prescribing the manner of preparing closure plans, their form and content, and the information, particulars, maps and plans to be included therein;
2. prescribing standards for rehabilitation;
3. prescribing standards for the protective measures to be taken in respect of the closure of a mine;
4. prescribing the form and manner and time of giving public notice;
5. prescribing the form and manner in which notice is to be given to the Director and to the proponent;
6. prescribing the manner of preparing the annual report to the Director required under subsection 161d (3);
7. prescribing the form of notice to be given under subsection 161d (5);
8. prescribing, for the purposes of subsection 161f (5), the form of a warrant to enter and inspect and, for the purposes of subsection 161f (6), the form of a warrant to enter and search;
9. prescribing, for the purposes of subsection 161g (1), the information to be contained in the notice to be given to the Director relating to a producing mine or to a mine from which production is temporarily suspended;

10. prescribing quantities of material extracted and other types of work that are to be classified as advanced exploration work;
11. prescribing time periods within which duties under Part IX shall be complied with;
12. prescribing anything that by Part IX is to be or may be prescribed.

Minister may
issue licence,
lease or
patent

(3) Notwithstanding anything in this Act, in special circumstances the Minister may, subject to the approval of the Lieutenant Governor in Council, issue a licence of occupation, lease or patent of any mining lands or mining rights on such terms and conditions as the Minister considers appropriate.

83. Section 192 of the said Act is repealed.

84.—(1) Subsection 193 (1) of the said Act is amended by striking out “Notwithstanding section 192” in the first line.

(2) Subsection 193 (2) of the said Act is repealed.

85. Section 194 of the said Act is amended by adding thereto the following subsections:

Registration
of order

(2) The land registrar of the land titles or registry division in which any lands or rights mentioned in a court order made under subsection (1) are situate shall, upon receipt of the order, register it and the order is absolute and conclusive proof of the vesting in the Crown of the lands or rights affected by the order and the vesting in the Crown is not open to attack in any court by reason of the omission of any act or thing leading up to the order repealing or avoiding the patent or lease.

Non-
application
of
R.S.O. 1980,
cc. 445, 230

(3) Upon registration of the court order in the land registry office, the *Registry Act* or the *Land Titles Act*, as the case may be, ceases to apply to the lands or rights affected by the order, and the land registrar shall note that fact in the register in red ink.

Opening
lands for
prospecting,
etc.

(4) The lands and mining rights vested in the Crown under this section are not open for prospecting, staking out or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in *The Ontario Gazette*.

86. Section 195 of the said Act is repealed and the following substituted therefor:

195. Where a freehold or leasehold interest in mining lands or mining rights reverts, other than by transfer to the Crown, the land or rights may be dealt with as unpatented Crown land.

Reversion to
Crown

87.—(1) Subsection 196 (2) of the said Act is amended by striking out “rate of 6 per cent” in the eighteenth and nineteenth lines and inserting in lieu thereof “prescribed percentage rate”.

(2) Subsection 196 (8) of the said Act is repealed and the following substituted therefor:

(8) An application under subsection (2) shall be accompanied by the prescribed fee.

Fee

88. Subsection 197 (5) of the said Act is amended by striking out “purchase or” in the fifth line.

89. Section 198 of the said Act is repealed and the following substituted therefor:

198.—(1) The owner, lessee or licensee of any mining lands or mining rights granted under this Act or any other Act may surrender such lands or mining rights to the Crown only upon such terms as are acceptable to the Minister, and thereupon the Minister may cause a notice of determination to be filed in the proper land registry office.

Voluntary
surrender of
mining lands

(2) An owner, lessee or licensee who surrenders mining lands or mining rights under subsection (1) may file a notice in the prescribed form with the recorder indicating that such owner, lessee or licensee wishes to retain an interest in the lands or part of the lands thereof, in the form of unpatented mining claims.

Retention as
unpatented
mining claims

(3) Where a notice has been filed under subsection (2), the owner, lessee or licensee shall stake out or cause to be staked out and recorded in such size, form, manner and time as is prescribed, the lands in which an interest is to be retained.

Staking out
and recording
of lands

(4) Where mining claims have not been staked out and recorded under subsection (3) within the time prescribed, the recorder may extend the time for staking out and recording or may order that the mining lands or mining rights on which the staking out and recording is to be performed are surrendered and the recorder shall, in the case where an order of surrender is made, by registered letter mailed not later than the next day after the making of the order, notify the owner, lessee or licensee of the recorder's action and the reason therefor.

Extension of
time by
recorder or
order of
surrender of
lands

Prospecting,
etc., on
surrendered
lands

(5) Mining lands or mining rights surrendered to the Crown under subsection (1) and which are not recorded as unpatented mining claims under subsection (3) shall not be open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, notice of which shall be published in *The Ontario Gazette* at least two weeks prior thereto.

90. Section 199 of the said Act is repealed and the following substituted therefor:

Lands
forfeited,
etc., to
Crown
R.S.O. 1980,
c. 95
1982, c. 4

199.—(1) Where mining lands or mining rights,

- (a) are forfeited to the Crown under the *Corporations Act* or the *Business Corporations Act, 1982*, or any predecessor thereof or are forfeited to the Crown for any other cause; or
- (b) have become the property of the Crown by reason of the person last seized thereof or entitled thereto having died intestate and without lawful heirs,

the Minister may cause to be registered in the proper land registry office a notice stating that forfeiture has been effected as mentioned in clause (a) or that the lands or mining rights have become the property of the Crown as mentioned in clause (b), as the case may be, and that by reason thereof the lands or mining rights and every interest therein are forfeited to and vested in, or have become the property of, the Crown, absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture or becoming the property of the Crown, and, subject to subsection (2), such lands shall be dealt with under this Act.

Opening
forfeited,
etc., lands
for
prospecting,
etc.

(2) Mining lands or mining rights so forfeited or that have become the property of the Crown are not open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in *The Ontario Gazette*.

91. Section 200 of the said Act and the preceding heading are repealed and the following substituted therefor:

ANNULMENT OF FORFEITURE OR TERMINATION OF LEASE

Annulment
of forfeiture,
etc.

200.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may by order revoke, cancel or annul the forfeiture of any mining lands or mining rights under this Act or revoke, cancel or annul the termination of

any lease of mining lands under this Act or relieve from forfeiture any unpatented mining claims on such terms and conditions as the Minister considers appropriate.

(2) Where an order under subsection (1) concerns unpatented mining claims, such order shall be filed in the office of the mining recorder. Filing order in recorder's office

(3) Where an order under subsection (1) concerns leases or freehold patents, the Deputy Minister shall cause the order to be registered in the proper land registry office and thereupon the mining lands or mining rights revert in the owner or lessee of the mining lands or mining rights at the time of forfeiture or termination, his or her heirs, successors or assigns, subject to any lien, mortgage or charge entered or registered prior to the forfeiture or termination and still outstanding. Registering order in land registry office

(4) Where application is made for an order under subsection (1), the Minister may direct the mining lands or mining rights described in the application to be withdrawn from prospecting, staking out, sale or lease until the disposition of the application. Withdrawal of lands from prospecting, etc.

(5) The Minister may direct an application for an order under subsection (1) to be accompanied by the prescribed fee. Fee

92. The heading preceding section 201 of the said Act is struck out and the following substituted therefor:

MINING LAND TAX

93. Section 201 of the said Act is repealed and the following substituted therefor:

201. In this Part,

Definitions

“municipality” means a city, town, village, township or improvement district;

“tax” means a tax under this Part.

94. Section 202 of the said Act is repealed and the following substituted therefor:

202. There shall be paid to the Crown in each year a tax in the prescribed amount for each hectare on any lands or mining rights to which this Part applies. Amount of tax

95. Section 203 of the said Act is amended by striking out “acreage” in the first line.

96.—(1) Subsection 204 (1) of the said Act is amended by striking out “acreage” in the twenty-third line.

(2) Subsection 204 (2) of the said Act is amended by striking out “acreage” in the first line.

97. Clause 205 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) land has been subdivided,

(i) by a registered plan of subdivision, or

(ii) by a reference plan into parts for city, town, village or summer resort purposes,

and there is no severance of the surface and mining rights.

98. Section 207 of the said Act is amended by striking out “acreage” in the third line.

99. Section 208 of the said Act is amended by striking out “acreage” in the fourth line.

100. Section 209 of the said Act is amended by striking out “acreage” in the second line.

101. Subsection 210 (1) of the said Act is amended by striking out “acreage” in the fourth line and in the eighth line.

102.—(1) Subsection 211 (1) of the said Act is amended by striking out “acreage” in the first line.

(2) Subsection 211 (2) of the said Act is repealed and the following substituted therefor:

Fee

(2) An application under subsection (1) shall be accompanied by the prescribed fee.

103.—(1) Subsection 212 (1) of the said Act, as amended by the Statutes of Ontario, 1988, chapter 48, section 3, is further amended by striking out “acreage” in the fourth line and by striking out “certified mail” in the sixth line and inserting in lieu thereof “mail or delivered by courier service”.

(2) Subsection 212 (2) of the said Act is amended by striking out “acreage” in the sixth line.

(3) Subsection 212 (3) of the said Act is amended by striking out "acreage" in the first line.

104. Section 214 of the said Act is repealed.

105.—(1) Subsection 215 (1) of the said Act is amended by striking out "acreage" in the first line.

(2) Subsection 215 (2) of the said Act is amended by striking out "acreage" in the second line.

106. Section 217 of the said Act is amended by striking out "acreage" in the second line.

107. The Schedule to the said Act is repealed.

108.—(1) Every prospector's licence issued or renewed under the *Mining Act*, that is in good standing on the day this section comes into force, expires on the date set out on the licence or renewal thereof, and thereafter, in the case of a licence held by a natural person, may be renewed under section 22 of the *Mining Act*, as amended by section 12 of this Act.

Prospector's
licence
R.S.O. 1980,
c. 268

(2) The expiry provision in subsection (1) does not apply to a prospector's licence that was issued or renewed as a lifetime licence.

Idem

(3) Where, before the 24th day of October, 1989,

Dispute or
court
proceeding

(a) a dispute has been filed under section 56 of the *Mining Act*; or

(b) a proceeding has been commenced in the Supreme Court to declare forfeited or void or to cancel or annul any Crown patent issued for mining lands, mining claims or mining rights,

the provisions of the *Mining Act*, as they existed before the coming into force of this Act, continue to apply to the dispute or proceeding until finally disposed of.

(4) Subsections 56 (7) and (8) of the *Mining Act*, as enacted by section 34 of this Act, apply to any re-staking by or on behalf of a transferee that has been commenced before, on or after the 24th day of October, 1989, unless, before that day, the matter in dispute has been finally disposed of under the *Mining Act*.

Re-staking

(5) Section 96 of the *Mining Act*, as it read before its re-enactment by section 61 of this Act, continues in force and

Freehold
patent

applies in respect of any application for a patent made under that section before the 24th day of October, 1989.

Relief from
forfeiture by
Mining and
Lands
Commissioner

109.—(1) Where forfeiture occurs under clause 85 (1) (c), (d) or (e) of the *Mining Act* as those clauses read before the coming into force of section 52 of this Act or under clause 85 (1) (c) of the *Mining Act*, as re-enacted by section 52 of this Act, and where an application is made to the Mining and Lands Commissioner within six months of the forfeiture, the Commissioner may make an order on such terms and conditions as the Commissioner considers just relieving the claim from forfeiture and extending the time for performing or reporting the work, or both, but no such application may be made to the Commissioner after the expiration of eight months from the day section 52 of this Act comes into force.

Performance
of assessment
work or
application
for lease

(2) Where, on the day section 76 of the *Mining Act*, as re-enacted by section 46 of this Act, comes into force, 200 days of assessment work have been performed and recorded by the holder of a mining claim under section 76 of the *Mining Act* as it read before its re-enactment by section 46 of this Act, the holder of the mining claim shall,

- (a) perform and file such annual units of assessment work as are prescribed under section 76 of the *Mining Act*, as re-enacted by section 46 of this Act; or
- (b) apply and pay for a lease of the claim within the time set out in subsection 94 (2) of the *Mining Act*, as it read before its re-enactment by section 59 of this Act, or, where applicable, within the time set out in an order of the Mining and Lands Commissioner under section 86 of the *Mining Act* as it read before its re-enactment by section 53 of this Act.

Rental rate,
subsisting
leases

110.—(1) A subsisting lease that has been issued or renewed under section 94, 95 or 97 or subsection 190 (2) of the *Mining Act*, as those provisions read before the day sections 59, 60, 62 and 82 of this Act come into force, shall continue to bear the existing rental rate until the expiration of five years from that day.

Certain leases
issued after
ss. 59, 60,
62, 82, in
force

(2) Where a lease applied for before the 24th day of October, 1989 is issued after the day sections 59, 60, 62 and 82 of this Act come into force, the lease shall bear the rental rate provided for by the *Mining Act*, as that Act read before the day sections 59, 60, 62 and 82 of this Act come into force, until the expiration of five years from the day those sections come into force.

(3) Where a lease to which subsection (1) or (2) applies is renewed under section 94 of the *Mining Act*, as amended by section 59 of this Act, the lease shall, until the expiration of five years from the day sections 59, 60, 62 and 82 of this Act come into force, bear the rental rate set out in subsection 94 (8) of the *Mining Act*, as that section read before its re-enactment by section 59 of this Act. Renewal
leases

(4) Notwithstanding the provisions of a lease, after the expiration of five years from the day sections 59, 60, 62 and 82 of this Act come into force, every lease shall bear the rental rate set out in the *Mining Act* as amended by this Act. When new
rental rates
in Act prevail

111.—(1) This Act, except subsection 34 (3) and section 51, comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

(2) Subsection 34 (3) and section 51 come into force on the day this Act receives Royal Assent. Idem

112. The short title of this Act is the *Mining Amendment Act, 1989*. Short title